

RESOLUTION APPROVING STATEMENT OF RULES AND REGULATIONS

DETAILING THE DISTRICT'S PROMPT PAYMENT POLICY

PURSUANT TO SECTION 2880 OF THE PUBLIC AUTHORITIES LAW

WHEREAS, Section 2880 of the Public Authorities Law, approved on June 29, 1987 and made effective on January 1, 1988 requires certain public authorities and public corporations to comply with standards for the payment of bills incurred by said public authorities and public benefit corporations within specified periods of time and requires interest penalties in situations where payments do not conform to these standards, and

WHEREAS, the District Board has determined that by statutory definition, the provisions of Section 2880 of the Public Authorities Law applies to the District and the manner in which it must make payment to contractors, and

WHEREAS, Section 2880 (2) requires that the District shall promulgate rules and regulations detailing its prompt payment policy,

NOW THEREFORE BE IT RESOLVED, that the District Board does hereby approve and promulgate a Statement of Rules and Regulations detailing the District's Prompt Payment Policy pursuant to Section 2880 of the Public Authorities Law as said Statement is set forth in the schedule attached hereto and made a part hereof.

Approved as to form:

Donald C. Bowes
Donald C. Bowes, Counsel

Motion was made by Mr. Berle and seconded by Mrs. Shoemaker that the Resolution be approved.

Present and Voting:

<u>MEMBER</u>	<u>AYE</u>	<u>NOE</u>	<u>ABSTAIN</u>
Mr. Berle	<u>X</u>	_____	_____
Mr. Fitzsimmons	<u>X</u>	_____	_____
Mrs. Shoemaker.	<u>X</u>	_____	_____
Mr. Turck	<u>X</u>	_____	_____

STATEMENT OF RULES AND REGULATIONS

PROMULGATED BY

THE BOARD OF THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT

DETAILING THE DISTRICT'S PROMPT PAYMENT POLICY PURSUANT TO

SECTION 2880 OF THE PUBLIC AUTHORITIES LAW

- I. Statutory Authority: Chapter 183 of the Laws of 1987, approved June 29, 1987, effective January 1, 1988 adding a new section twenty-eight eighty to the Public Authorities Law.
- II. District Application: Subdivision 1 (a) of Section 2880 of the Public Authorities Law defines a "Corporation"...as..."every public authority and public benefit corporation a majority of the governing board members of which are either appointed by the governor or serve as members by virtue of their service as an officer of a state department, division, agency, board or bureau, or combination thereof". The Hudson River-Black River Regulating District is a public corporation created pursuant to Article 15, Title 21 of the Environmental Conservation Law and the members of its governing board are all appointed by the governor for specified terms.
- III. Types of Contracts: In order to perform its statutory functions as a river regulating district created pursuant to Article 15, Title 21 of the Environmental Conservation Law, the District Board is required, from time to time, to authorize the execution of certain contracts with certain firms, organizations and individuals which include but are not necessarily limited to the following:
 - A. Construction and rehabilitation contracts for the construction and rehabilitation of dam facilities and other projects required for the creation, maintenance and operation of river regulating reservoirs.
 - B. Purchase contracts for the purchase and or leasing of office furniture and field equipment including but not limited to motor vehicles, construction equipment, office furnishings and office equipment.
 - C. Service contracts for the maintenance and operation of field and office equipment.
 - D. Consulting contracts for specific services not rendered by salaried full and part time employees including but not limited to legal, financial and public relations services.

IV. Procedure for Requesting Payment: The following procedures shall be followed by a contractor in requesting payment under a contract:

A. Construction and Rehabilitation Contracts:

Unless progress payments are specified in the contract, contractor shall submit a payment voucher to the District upon completion of all work required to be completed under the contract with a certification of completion included therein. If the contract provides for progress payments as the work progresses, contractor shall submit a duly certified and approved estimate of the work performed during the preceding payment period in accordance with the schedule specified in the contract. If the contract provides for a retention by the District Board of a specified percentage of the amount of each estimate to insure proper performance of the contract, such percentage shall be retained until final completion and acceptance of all work covered by the contract.

B. Purchase Contracts: Upon the delivery to the District of all items purchased or leased under a purchase or lease contract, contractor shall deliver to the District an invoice with a certification that all items covered by the invoice and delivered to the District are in conformity with the specifications of the contract and that the prices set forth in the invoice for each item purchased or leased are in conformity with the bid or quoted price as set forth in the contract.

C. Service Contracts: Upon completion of the service rendered under a service contract, the contractor shall submit a voucher with a certification that the service rendered including any materials or supplies furnished have been completed and or furnished in conformity with the specifications contained in the contract and that the charges included in the invoice are those charges which the District agreed to pay for the services rendered pursuant to the contract.

D. Consulting Contracts: Upon completion of services rendered under a consulting contract, the contractor shall submit a voucher with a certification that the consulting services rendered have been performed in conformity with the contract requirements and that the charges included in the invoice are those charges which the District agreed to pay for the consultant services rendered pursuant to the contract.

V. Schedule for Prompt Payment under Contract: All District checks are required to be countersigned by the State Comptroller pursuant to Section 15-2129 (8) of the Environmental Conservation Law. Upon receipt of vouchers containing appropriate certifications, District will take appropriate steps to authenticate and approve vouchers for

payment and submit checks to the State Comptroller for countersignature within a time frame designed to permit payment within the thirty (30) calendar days after receipt of invoice.

- VI. Declaration Regarding Payment of Interest: District will pay interest on the balance due on any invoice which has not been paid within thirty (30) days of the receipt thereof at the rate specified in Section 1096 of the Tax Law pursuant to Section 2880, Subdivision 7 (c) of the Public Authorities Law unless (1) the payment has been delayed due to process time by the Department of Audit and Control, or (2) the payment is delayed by facts and conditions, as set forth in paragraph VIII herein, which, in the opinion of the District Board, reasonably justify extension of the date by which contract payment must be made in order for the District not to become liable for interest payments in accordance with subdivision 7 of Section 2880 of the Public Authorities Law.
- VII. Funding Sources for District to Pay Interest: The District's annual maintenance and operation budget is funded primarily from assessments levied against downstream paying beneficiaries. The payment of any interest penalties required pursuant to Section 2880 of the Public Authorities Law would be charged against the contingency fund in said general fund budget.
- VIII. Fact and Conditions Justifying Extension for Payment: The following is a list of facts and conditions which in the opinion of the District Board would reasonably justify an extension of the date by which contract payments must be made in order for the District not to become liable for interest payments in accordance with Section 2880 (7) of the Public Authorities Law:
- A. When in accordance with specific statutory or contractual provisions, payments must be preceded by an inspection period or by an audit to determine the resources applied or used by a contractor in fulfilling the terms of the contract.
 - B. A proper invoice must be examined by the federal government prior to payment.
 - C. Such date by which contract payment must be made is modified in accordance with subdivision eight of Section 2880 of the Public Authorities Law, to wit: The District "shall have fifteen calendar days after receipt of an invoice...at its designated payment office to notify the contractor of (a) defects in the delivered goods, property or services, (b) defects in the invoice, (c) suspected improprieties of any kind; and the existence of such defects or improprieties shall prevent the commencement of the time period specified in subdivision seven" of Section 2880 of the Public Authorities Law. If the District

"fails to notify a contractor of such defects or suspected improprieties within fifteen calendar days of receiving the invoice, the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days between the fifteenth day and the day that notification was transmitted to the contractor". If the District, "in such situations, fails to provide reasonable grounds for its contention that a defect or impropriety exists, the date by which contract payment must be made in order for the "...District..." to become liable for interest payment shall be calculated from the date of the invoice".